IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23108 of 2005
With
SPECIAL CIVIL APPLICATION No. 23110 of 2005
To
SPECIAL CIVIL APPLICATION No. 23120 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAVJI NARAN & 11 - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR HRIDAY BUCH for Petitioner(s) : 1 - 12.
NOTICE SERVED BY DS for Respondent(s) : 1 – 3.

MR PRACHCHHAK, AGP for Respondent (s) : 1-3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 19/12/2005

COMMON ORAL JUDGMENT

1.In this group of petitions the respective petitioners/agriculturists have prayed for an

appropriate writ, direction or order directing the respondents, their officers, agents, servants, etc. to accept their applications for supply of water through canal and further direction is sought directing the respondents No.2 and 3 – Executive Engineer, Irrigation Department, Rajkot and Deputy Executive Engineer, Bhadar Sub-division, Junagadh Road, Jetpur, District Rajkot to consider such applications for sanction of supply of water in accordance with law.

2. Shri Prachchhak, learned AGP has submitted that as such there are no applications submitted by the petitioners which is disputed by Shri Hriday Buch, learned advocate appearing on behalf of the petitioners. Shri Buch, learned advocate appearing on behalf of the petitioners has submitted that in fact, the petitioners went to the respondents Nos.2 and 3 with necessary applications but their applications were not accepted. As such the affidavit-in-reply is also filed on behalf of the respondents. However, it is required to be noted that the applications for supply of water are required to be decided considering Rule-8 of the Gujarat Canal Rules and against the rejection of such applications and/or any order passed under Rule-8 of the Gujarat Canal Rules, a further appeal is provided to approach the

Collector. It appears that as such there is no decision by the respondents No.2 and 3 under Rule-8 of the Gujarat Canal Rules till date. Without entering into the larger question that whether the petitioners have gone with the applications and the respondents No.2 and 3 have not accepted the same, the petitioners may submit necessary applications as required under Rule-8 of the Gujarat Canal Rules in the described format within a period of 1 week from today as agreed by Shri Buch, learned advocate appearing on behalf of the petitioners and on receipt of the same, the respondents No.2 and 3 are directed to consider the same and pass an appropriate order in accordance with law and on merits within a period of 10 days thereafter and shall communicate the outcome of the same to the petitioners and if the order that may be passed is adverse to the petitioners, it will be open for the petitioners to challenge the same before the appellate forum as contemplated under Rule-36 of the Gujarat Canal Rules.

3. At this stage, Shri Buch, learned advocate appearing on behalf of the petitioners has submitted that there is a standing crop and due no non-availability of the water, it is likely to be destroyed and/or damaged, and under the hope that the respondents No.2 and 3 would supply

the water, the petitioners have cultivated the crop. It is submitted that if during the interregnum period till the applications submitted by the petitioners are decided and disposed of, if the respondents No.2 and 3 may consider to supply water to the petitioners subject to the availability of the water and if it is not likely to affect other agriculturists and if the surplus water is available. It will be open for the petitioners to move such applications/representations before the respondents No.2 and 3 and the same may be considered by them considering the aforesaid aspects and if there is surplus water available and supply of water to the petitioners will not be affecting or causing damage or loss to the other agriculturists.

4.With these observations and direction, the present Special Civil Applications are disposed of.

Direct Service is permitted.

(M.R.SHAH, J.)

kdc.